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April 23, 1998

Magalie R. Salas
Secretary
FCC MAIL ROOM
Federal Communications Commission
1919 M Street NW, Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL


RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45, DA 98-682, MCI
Petition for Declaratory Ruling, Comments of the Washington Utilities and
Transportation Commission.

Dear Ms. Salas:

Pursuant to the Federal Communications Commission's Public Notice in the above referenced proceeding, enclosed for filing are an original and five copies of the Comments of the Washington Utilities and Transportation Commission. We are also filing copies pursuant to the Notice with Sheryl Todd in the Accounting Policy Division, Common Carrier Bureau, and with International Transcription Services, Inc.

Please contact Tom Wilson at (360)-664-1293, tomw@wutc.wa.gov, if you have any questions about this filing.

Sincerely,


GREGORY J. TRAUTMAN
Assistant Attorney General

GJT:kl
Enclosure

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Before the
Federal Communications Commission
Washington, D.C. 20554

FCC FILE NO. 96-45

In the Matter of)	CC Docket No. 96-45
)	[DA 98-682]
Federal-State Joint Board on)	
Universal Service)	
)	

**MCI PETITION
FOR DECLARATORY RULING**

Comments of the Washington Utilities & Transportation Commission

The Washington Utilities and Transportation Commission ("WUTC") hereby files reply comments concerning the Public Notice issued by the Federal Communications Commission ("Commission") in the above-captioned proceeding on April 10, 1998.

Table of Contents

Summary.	1
Discussion.	2
Conclusion.	3

Summary.

The WUTC opposes MCI's petition for a declaratory ruling. MCI's petition seeks to gain regulatory approval for a practice that it has had in effect for several months and that has

generated numerous complaints to the WUTC and to local exchange companies that provide billing service for MCI. It is misleading to consumers, because it violates a fundamental principle that all charges for services should be stated in the filed tariff or price list.

Discussion.

On April 2, 1998, the WUTC staff notified MCI that the staff had concluded that MCI's practices in applying its "National Access Fee" were inappropriate, because MCI was applying a charge to intrastate rates that did not appear in its intrastate price list. WUTC staff said that MCI should either cease to apply this charge to intrastate rates or include it in its intrastate price list. WUTC staff also said it believed MCI should refund any National Access Fee amounts that had been collected on intrastate service.

MCI would have the Commission and its customers believe that its National Access Fee is a federally mandated charge or tax that, for reasons of simplicity and perhaps even equity, are appropriately spread across intrastate rates. The National Access Fee is, to the contrary, simply MCI's chosen rate design. Neither MCI nor any other interexchange carrier is required to make an explicit pass-through of the interstate Primary Interexchange Carrier Charge ("PICC"). As with any other component of its costs, MCI must decide how to structure its retail prices to recover that cost. As a non-dominant carrier (and a competitively classified company in Washington State), MCI is afforded substantial flexibility in setting its rate level and rate design. It may not, however, mislead its current and potential customers, and it may not assess a charge on an intrastate service that is not stated in its intrastate price list.

The WUTC believes that MCI can achieve the outcome it apparently desires -- a uniform

surcharge that it applies without regard to whether a particular call is interstate or intrastate -- if it includes that surcharge in both its interstate tariff and its intrastate price list and properly discloses that surcharge to its customers. It would then be up to individual customers to decide whether to choose a carrier whose rates are structured to include such a surcharge.¹ MCI seeks to achieve its desired outcome in a wholly different manner, one that should be rejected by the Commission. MCI would have the Commission hold that intrastate services can be charged interstate rates. That result would render the intrastate price list useless as a means of disclosing to customers the services and prices being offered by each carrier, and it would harm the ability of the WUTC and other state commissions to protect customers from unreasonable intrastate rates and terms.

Conclusion.


The WUTC therefore recommends that the Commission reject MCI's petition and instead make clear that it will not interfere with the intrastate ratemaking process. The WUTC and other state commissions can then continue to protect consumers of intrastate services by making sure that carriers offering intrastate services charge only the rates contained in their intrastate price lists for those services, give adequate notice to customers of changes in rates, and clearly and accurately describe the nature of any rates and surcharges.

¹ The WUTC supports the Resolution by the National Association of Regulatory Utility Commissioners adopted at the Winter, 1998 Conference supporting FCC action to require interstate carriers to provide accurate customer notice regarding the implementation and purpose of end user charges.

DATED this 23rd day of April, 1998, at Olympia, Washington.



ANNE LEVINSON, Chair
Washington Utilities and Transportation
Commission



RICHARD HEMSTAD, Commissioner
Washington Utilities and Transportation
Commission



WILLIAM R. GILLIS, Commissioner
Washington Utilities and Transportation
Commission

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